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10/036,157	12/26/2001	Tomasz A. Matraszek	83837RLO	3986

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EXAMINER

CUNNINGHAM, GREGORY F

ART UNIT PAPER NUMBER

2676

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/036,157	Applicant(s) MATRASZEK ET AL.	
	Examiner Gregory F. Cunningham	Art Unit 2676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to amendment filed 12/30/2004.
2. The disposition of the claims is as follows: claims 1-26 are pending in the application.

Claims 1 and 13 are independent claims.

Claim Rejections - 35 USC § 112

3. In view of the amended claims and review of remarks, 112 rejections are withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9, 12-21, 24, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Real World Photoshop 3", hereinafter Photoshop, and further in view of either Ano (Patent Application Publication US 2002/0030665 A1), hereinafter Ano, or Manross, Jr. (US Patent 6,414,663 B1), hereinafter Manross.

A. Claim 1, "An image file for storing a digital image and information related to the digital image ['TIFF files' and 'caption information' correspond "digital image" and "information related to the digital image" respectively - p.503, para. 3-4], including

- a) digital image data [TIFF file - p.503, para. 3-4];

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b) a user identifier; and

c) affective information which relates to the feelings or emotions of the user

identified by the user identifier toward the digital image stored in the image file [p.503, para. 4-5]" is disclosed by Photoshop, as detailed [‘all sorts of information about the image and where it came from, and so on’ corresponds to “information which relates to the feelings or emotions of the user identified by the user identifier toward the digital image stored in the image file“ page 503, para. 3-6, beginning at “Tip: Use File Info for Caption”, also see Figure 17-14].

Clearly Photoshop teaches saving all sorts of information about the image and where it came from, and so on as caption information inside the TIFF or EPS files. While Photoshop does not state specifically name this information as affective information or as user identifier, Ano discloses in [para 0111 – 0112; The images 42 are images captured by a device such as a digital camera and transferred into the portable information apparatus 1. Recent digital cameras can handle more than 100 images at a time as they support large capacity storage media. Since it is difficult to grasp image content by the file name alone, each image transferred from a digital camera is displayed in the form of a shrunken image of relatively small size. Generally, displaying shrunken images side by side is called a thumbnail preview. In the second embodiment, 16 images, four horizontally and four vertically, are displayed at a time as a thumbnail preview.

Next, one or more images are selected from among the plurality of images displayed as thumbnails. The selection is made, for example, when printing the most favorite image from among the images captured by a digital camera, or when transmitting a selected image by attaching it to a mail message. Though a mouse and a cursor may be used to select a suitable

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image, in the second embodiment the image is selected using the wheel 8. This method will be described below. Further, for convenience of explanation, it is assumed in the second embodiment that only one image is selected at a time, and that the image selected from among the 16 thumbnail images is highlighted on the screen. The highlighting is accomplished, for example, by encircling the selected image with a red frame (pointer) 46 as earlier described.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply caption information inside TIFF or EPS files disclosed by Photoshop in combination with selecting a plurality of favorite images from among the images captured by a digital camera, or when transmitting a selected image by attaching it to a mail message as disclosed by Ano, and motivated to combine the teachings because “in the old days, you might have written on the back of the photograph, or perhaps slapped a Post-it note down somewhere. Now there’s nothing to write on. So now you can use digital photo caption information to reveal ‘all sorts of information about the image and where it came from, and so on’ where before it was ‘difficult to grasp image content by the file name alone’ as revealed by Photoshop in para. 3 and Ano supra.

Moreover it would have been obvious to one of ordinary skill in the art at the time the invention was made in light of Photoshop and Ano to provide the favorite images of whom, even if it were just ‘My Most favorite (name of whatever is photographed)’, ‘My Best photo’, ‘My Pride & Joy’ or ‘Our Most Beautiful house’ wherein ‘my’ or ‘our’ and ‘favorite’ correspond to the “user identifier” and ‘favorite’, respectively. No, these are not hindsight examples of Photoshop in light of the applicant’s claim, but merely examples of Photoshop’s ‘what you might have written on the back of a photograph’ since the beginning of the invention of photography by

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the Frenchman, Daguerre (pronounced Dagair), the most famous of several people who invented photography in 1826, or even the use of albumen prints in the mid 1800's.

Furthermore Manross discloses in col. 1, ln. 54 to col. 2, ln. 7 and col. 1, lns. 31-39 at: 'In one embodiment, the present invention mounts tastefully onto existing granite grave markers with a swinging cover to protect it. The invention's use of batteries or small solar cells provides the power to place text and digital photos/images on an LCD display relating to the deceased's life, accomplishments, philosophy, genealogy, favorite photographs, or whatever they would like that could be rendered digitally.' Wherein 'favorite photographs' and 'relating to the deceased's life' correspond to "user identifier" and "affective information", respectively.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply caption information inside TIFF or EPS files disclosed by Photoshop in combination with 'digital photos/images on an LCD display relating to the deceased's life, accomplishments, philosophy, genealogy, favorite photographs' as disclosed by Manross and motivated to combine the teachings because 'Information displayed on gravestones has remained static and minimal for centuries. Name, birthdate, date of death are the limited legacy most people leave behind for their time on earth. Recently, people have begun personalizing their gravestones with near photographic quality images of their homes, cars, and portraits' as revealed by Manross.

B. Claim 2, "The image file of claim 1 wherein the affective information further specifies the time or period within a range of times that the affective information was produced" is disclosed supra for claim 1 [see Photoshop, p. 504, Fig. 17-14, Date & Time].

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- C. Claim 3, “The image file of claim 1 wherein the affective information identifies the importance of the image” is disclosed supra for claim 1, wherein ‘Most’, ‘Best’, ‘Pride & Joy’ and Ano’s ‘most favorite image’ all correspond to “importance”.
- D. Claim 4, “The image file of claim 1 wherein the image file further includes information related to the capture device used to capture the digital image” is disclosed supra for claim 1, whereby Photoshop’s ‘all sorts of information about the image and where it came from’ wherein ‘where it came from’ corresponds to “includes information related to the capture device used to capture the digital image”. [See also Photoshop, p. 543, para. 2-5 beginning at Caption.]
- E. Claim 5, “The image file of claim 1 wherein the image data is a JPEG compressed image data” is disclosed supra for claims 1 and 4, [see also Photoshop, p. 543, para. 4, beginning at As a result].
- F. Claim 6, “The image file of claim 1 wherein the digital image file includes affective information and user identifies for a plurality of users” is disclosed supra for claim 1, wherein ‘our’ corresponds to a plurality of users.
- G. Claim 7, “A method for providing a retrieval scheme for stored digital images [Ano - Recent digital cameras can handle more than 100 images at a time as they support large capacity storage media], using the image file of claim 6, comprising the steps of: a) a retrieval user providing a user identifier [My or Our]; b) using the user identifier provided by the retrieval user to select, from the plurality of affective information [Ano - favorite image], the particular affective information associated with the retrieval user [Ano - most favorite image]; and c) using the affective information to facilitate image retrieval [Ano - Next, one or more images are selected from among the plurality of images displayed as thumbnails. The selection is made, for

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example, when printing the most favorite image from among the images captured by a digital camera, or when transmitting a selected image by attaching it to a mail message.]” is disclosed supra for claim 6 and as [detailed].

H. Claim 8, “The method of claim 7 wherein the affective information identifies the importance of the image to a plurality of users [Our Most Beautiful house]” is disclosed supra for claim 7 and as [detailed].

J. Claim 9, “The method of claim 7 wherein the affective information [Mother’s Day] is used to determine the order of presentation of retrieved images [Ano – ‘The selection is made, for example, when printing the most favorite image from among the images captured by a digital camera, or when transmitting a selected image by attaching it to a mail message’]” is disclosed supra for claim 7 and as [detailed].

K. Claim 12, “The image file of claim 1 wherein the affective information [Ano - most favorite] is provided by a user interface [Ano, para 0112 – Though a mouse and a cursor may be used to select a suitable image, in the second embodiment the image is selected using the wheel 8. This method will be described below. Further, for convenience of explanation, it is assumed in the second embodiment that only one image is selected at a time, and that the image selected from among the 16 thumbnail images is highlighted on the screen. The highlighting is accomplished, for example, by encircling the selected image with a red frame (pointer) 46 as earlier described] which enables the user to indicate important images [Ano - most favorite image from among the images captured by a digital camera]” is disclosed supra for claim 1 and [as detailed].

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L. Per independent claim 13, this is directed to an image file for performing the image file of independent claim 1, and therefore is rejected to independent claim 1. Wherein the name or caption [My, Mom, most favorite and/or Our] corresponds to metadata and affective information.

M. Per dependent claims 14-21, 24, these are directed to an image file for performing the image file of dependent claims 2-9, and 12, and therefore are rejected to dependent claims 2-9, and 12.

N. Claim 25, "The image file of claim 13 wherein the affective information is stored as personal tag data" is disclosed supra for claim 1. Wherein [My, Mom and/or Our] correspond to a "personal tag data".

P. Claim 26, "The image file of claim 25 wherein the personal affective tag is a numerical value" is disclosed by Photoshop and Ano supra for claim 25, [see Photoshop, p. 504, Fig. 17-14 TIFF Name: RTH#49.tif].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Photoshop and Ano as applied to claim 1 above, and further in view of Pierce et al., (US Patent Number 6,327,580), hereafter Pierce.

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8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Photoshop and Ano as applied to claim 1 above, and further in view of Oda et al., (US Patent Number US 6,088,040 A), hereafter Oda.

A. Claim 10, “The image file of claim 1 wherein the affective information is provided by monitoring the facial expression of the user” is disclosed by Photoshop and Ano supra for claim 1. However Photoshop and Ano do not appear to disclose, “wherein the affective information is provided by monitoring the facial expression of the user”, but Oda does in col. 4, ln. 42 – col. 5, ln. 7.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply affective information, image data and user identifier disclosed by Photoshop and Ano in combination with facial image information disclosed by Oda, and motivated to combine the teachings because it would [carry out analysis and composition of a facial expression of a person in information transmission such as a teleconferencing system and the like] as revealed by Oda in col. 1, lines 19-21.

B. Per dependent claim 22, this is directed to an image file for performing the image file of dependent claim 10, and therefore is rejected to dependent claim 10.

9. Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Photoshop and Ano as applied to claim 1 above, and further in view of Abbott et al., (PGPUB-DOCUMENT-NUMBER: 20020054174), hereafter Abbott.

A. Claim 11, “The image file of claim 1 wherein the affective information is provided by monitoring the physiology of the user” is disclosed by Photoshop and Ano supra for claim 1.

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However Photoshop and Ano do not appear to disclose, “wherein the affective information is provided by monitoring the physiology of the user”, but Abbott does in [para. 0130 and 0133].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply affective information, image data and user identifier disclosed by Photoshop and Ano in combination with physiology data disclosed by Abbott, and motivated to combine the teachings because it would provide [attributes] as revealed by Abbott in [para. 0130].

B. Per dependent claim 23, this is directed to an image file for performing the image file of dependent claim 11, and therefore is rejected to dependent claim 11.

Response to Arguments

10. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Responses

12. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Inquiries

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory F. Cunningham whose telephone number is (571) 272-7784. The examiner can normally be reached on Mon. - Thurs. 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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J.F. Cunningham

Gregory F. Cunningham
Examiner
Art Unit 2676

gfc

4/29/2005

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